

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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James Sharkey,

Plaintiff,

Case No. 2:24-cv-01513-JAD-DJA

V.

Susan Clark,

Defendant.

Report and Recommendation

On August 29, 2024, the Court denied Plaintiff's application to proceed *in forma pauperis* and directed Plaintiff to file an updated application on or before September 30, 2024. (ECF No. 4). In doing so, the Court explained that “[f]ailure to timely comply with this order may result in a recommendation to the district judge that this case be dismissed.” (*Id.*). That deadline has passed and, to date, Plaintiff has not filed anything further in this case. The Court thus recommends that Plaintiff's case be dismissed without prejudice. A dismissal without prejudice allows Plaintiff to refile a case with the Court, under a new case number.

Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without prejudice. The Clerk of Court is kindly directed to send this recommendation to Plaintiff.

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NOTICE

Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED: October 22, 2024

DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE